

IN THE UNITED STATES DISTRICT COURT
for the
DISTRICT OF DELAWARE

SCIELE PHARMA, INC., et al)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 09-37(RBK-JS)
)	(CONSOLIDATED)
LUPIN LTD, et al)	
)	
Defendants.)	

CLERK'S TAXATION OF COSTS

Defendants-Appellants, Lupin Ltd. and Lupin Pharmaceuticals, Inc. (collectively “Lupin”) filed two Notice of Appeals (DI 286, 347), appealing Orders issued by the District Court (DI 280, 345) which granted a Motion for Preliminary Injunction (DI 205). Two Federal Circuit Court of Appeals mandates were filed with the District Court (DI 346, 532). The appellate court vacated the District Court’s rulings granting the preliminary injunction and remanded to the District Court for further proceedings. Defendants-Appellants then filed their Bill of Costs with the affidavit of Barrett R. McVary (DI 542, 543) on August 23, 2012. Plaintiff, Shionogi Pharma, Inc. responded by filing Objections to the Bill of Costs (DI 547) on September 10, 2012.

The Clerk of Court may tax costs in accordance with District of Delaware Local Rule 54.1. Local Rule 54.1(a)(1) states “the prevailing party shall be entitled to costs.” Lupin makes no claim to support that it is the prevailing party. Nor has a judgment been issued by the District Court naming a prevailing party. The Clerk has considered Lupin’s bill of costs, objections to the bill of costs, and the appellate mandate.

There is no final resolution regarding the merits of this case. The Clerk finds it is premature for Lupin to assert that it is entitled to costs. Therefore, the bill of costs is **DENIED.**

Dated: April 24, 2013

John A. Cerino, Clerk
U.S. District Court for
the District of Delaware
/s/ Chelsea Attanasio
By Chelsea Attanasio
Deputy Clerk

cc: The Honorable Robert B. Kugler
The Honorable Joel Schneider

(By CM/ECF)
Karen Jacobs Loudon
Jack B. Blumenfeld
Jennifer Ying
Julia Heaney
Frederick L. Cottrell, III
Jason James Rawsley
Steven J. Fineman
Richard D. Kirk
Stephen B. Brauerman
Vanessa Ribeiro Teradentes

John A. Cerino, Clerk of Court